

Vinson & Elkins LLP

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Via Email (mcguire.karen@epa.gov)

Karen McGuire
Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency Region 1
5 Post Office Square, Mail Code 04-5
Boston, MA 02109-7341

Re: Algonquin Weymouth Compressor Station—
Supplemental Request for Force Majeure Extension of NSPS Performance Test

Dear Ms. McGuire:

On behalf of our client, Algonquin Gas Transmission, LLC (“Algonquin”), we write to provide supplemental information in support of our October 30, 2020, request for a force majeure-based extension of time under 40 C.F.R. § 60.8(a) to conduct the initial performance test under 40 C.F.R. part 60, subpart KKKK at Algonquin’s Weymouth Compressor Station (“the Station”). The detailed facts supporting our request are set forth in our October 30, 2020, letter.

In addition to the facts set forth in the October 30, 2020, letter, Algonquin relates the following.

1. After the September 30 event, at the direction of the U.S. Pipeline and Hazardous Materials Safety Administration (“PHMSA”) and pursuant to its Corrective Action Order (“CAO”) dated October 1, 2020, Algonquin engaged an independent third-party consultant to facilitate a direct cause investigation and Root Cause Failure Analysis (“RCFA”) of the event. After conducting a site inspection, a review of drawings, and interviews, the consultant made a preliminary determination that the only scenario that could have caused the September 30 event would have been a loss of 129-volt direct current (“DC”) power to the Station’s emergency shutdown (“ESD”) panel. In such an event, the ESD system is designed to “fail safe” by shutting down the Station and depressurizing the Station.
2. The third-party consultant preliminarily determined that there are only three elements in the ESD power panel system that could have caused a temporary loss of the 129VDC power to the

ESD panel: (1) a 20-amp breaker in the 129VDC distribution panel; (2) a fifty-foot run of 12-gauge power feed wire; and (3) a 20-amp breaker in the ESD panel itself. To resolve any potential concern with these elements going forward, the 20-amp breaker in the 129VDC distribution panel was replaced with a new, in-kind breaker. In addition, the fifty feet of 12-gauge power feed wire was replaced with a larger 10-gauge power feed to the ESD panel. The decision to upgrade to a 10-gauge power feed wire was made to ensure a better connection with the breakers. Finally, the 20-amp breaker in the ESD panel was replaced with a terminal block. The 20-amp breakers have been sent to a second independent consultant as a part of the root cause failure analysis.

3. Given that the preliminary direct cause of the September 30 event was determined to be a temporary loss of 129VDC power to the ESD panel, Algonquin evaluated the entirety of the ESD system design and components as a precaution to verify the system components, design and functionality. Through this review, Algonquin confirmed that the system components, design, and functionality were within applicable specifications. Nevertheless, Algonquin elected to implement the following preventive improvements for an added level of assurance: (1) verified electrical connections and tightened as necessary; (2) replaced all breakers in the 129VDC distribution panel; (3) validated control panel electrical terminations; and (4) validated electrical connections in the motor control center.

4. On November 9, 2020, Algonquin submitted a Restart Plan for the Station to PHMSA as required by the agency's October 30, 2020, Amended Corrective Action Order ("ACAO"). PHMSA is currently reviewing the Restart Plan, and Algonquin stands ready to implement the measures ultimately approved by PHMSA to return the Station to service as soon as it receives such authorization.

5. The proposed Restart Plan contemplates that Algonquin will bring the Station back into service using a five-phase pressurization plan, which includes interim leak surveys and operational approvals by PHMSA. This phased approach will span a number of days, culminating in the Station being approved to return to full maximum allowable operating pressure. During this time, and for a period following return to full pressure, the Subpart KKKK testing will not be able to be completed until all safety and operational checks are completed.

6. Algonquin and its independent third-party consultant are actively working to establish the root cause for the loss of DC power to the ESD panel and complete and submit the RCFA to PHMSA by the prescribed deadline of December 29, 2020. While the root cause of the failure has not been finally determined, the September 30 event was unexpected and beyond the control of Algonquin in that it is not a scenario typically encountered during station commissioning activities in our experience constructing and commissioning similar facilities.

In addition to the foregoing, we would also reiterate that PHMSA's issuance of the CAO and ACAO is a circumstance beyond the control of Algonquin that will prevent compliance with the performance test deadline. As we stated in our October 30, 2020, request, the types of events described in the definition of force majeure are non-exclusive. *See* 40 C.F.R. § 60.2 (definition of

“force majeure”). *See also* 72 Fed. Reg. 27,437, 27,438 (2007). Indeed, the issuance of the corrective action orders by PHMSA requiring cessation of operations of a compressor station facility based on an emergency shutdown is unprecedented in our experience and certainly beyond the control of Algonquin. In this case—and as further supported by the facts above—the issuance of a government order that prevents compliance should be accepted by the EPA as a circumstance beyond the control of Algonquin. If the EPA does not accept the CAO and ACAO as a circumstance beyond the control of Algonquin, Algonquin will face the untenable position of complying with PHMSA’s orders at the expense of violating the EPA’s regulation.

In its October 30, 2020, letter Algonquin stated that “it is appropriate to set the extended performance [test] deadline at sixty days after Station restart.” In light of the Restart Plan’s five-phase restart plan—only after the completion of which may the turbine be restarted—Algonquin now requests that the extended performance test deadline be set at sixty days after the *turbine* restart.

We thank you in advance for your attention to this supplemental information. If you have any questions, please do not hesitate to contact me by email at ptraylor@velaw.com or by telephone at (202) 669–3896.

Sincerely,

Vinson & Elkins LLP



Patrick D. Traylor

Partner

cc: James Chow, Region 1 Enforcement and Compliance Assurance Division
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